

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 349 be amended to read as follows:

- 1 Page 3, between lines 27 and 28, begin a new paragraph and insert:
2 "SECTION 2. IC 27-1-17-4 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Whenever a foreign
4 or an alien insurance company desires to be admitted to do an insurance
5 business in this state, it shall execute in the English language and
6 present the following to the department, at its office, accompanied by
7 the fees prescribed by law:
8 ~~(a)~~ (1) A copy of its articles of incorporation or association, with
9 all amendments thereto, duly authenticated by the proper officer
10 of the state, country, province, or government wherein it is
11 incorporated or organized, or the state in which it is domiciled in
12 the United States.
13 ~~(b)~~ (2) An application for admission, executed in the manner
14 provided in this chapter, setting forth:
15 ~~(1)~~ (A) the name of such company;
16 ~~(2)~~ (B) the location of its principal office or place of business
17 without this state;
18 ~~(3)~~ (C) the names of the states in which it has been admitted or
19 qualified to do business;
20 ~~(4)~~ (D) the character of insurance business under its articles of
21 incorporation or association which it intends to transact in this
22 state, which must conform to the class or classes set forth in
23 the provisions of IC 27-1-5-1;
24 ~~(5)~~ (E) the total authorized capital stock of the company and
25 the amount thereof issued and outstanding, and the surplus

required of such company by the laws of the state, country, province, or government under which it is organized, or the state in which it is domiciled in the United States, if a stock company, which shall equal at least the requirements set forth in section 5(a) of this chapter;

~~(6)~~ **(F)** the total amount of assets and the surplus of assets over all its liabilities, if other than a stock company, which shall equal at least the requirements set forth in section 5(b) of this chapter;

~~(7)~~ **(G)** if an alien company, the surplus of assets invested according to the laws of the state in the United States where it has its deposit, which shall equal at least the requirements set forth in section 5(c) of this chapter; and

~~(8)~~ **(H)** such further and additional information as the department may from time to time require.

The application shall be signed in duplicate, in the form prescribed by the department, by the president or a vice president and the secretary or an assistant secretary of the corporation, and verified under oath by the officers signing the same.

~~(c)~~ **(3)** A statement of its financial condition and business, in the form prescribed by law for annual statements, signed and sworn to by the president or secretary or other principal officers of the company; provided, however, that an alien company shall also furnish a separate statement comprising only its condition and business in the United States, which shall be signed and sworn to by its United States manager.

~~(d)~~ **(4)** A copy of the last report of examination certified to by the insurance commissioner or other proper supervisory official of the state in which such company is domiciled; provided, however, that the commissioner may cause an examination to be made of the condition and affairs of such company before authority to transact business in this state is given.

~~(e)~~ **(5)** A certificate from the proper official of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States, that it is duly organized or incorporated under those laws and authorized to make the kind or kinds of insurance which it proposes to make in this state.

~~(f)~~ **(6)** A copy of its bylaws or regulations, if any, certified to by the secretary or similar officer of the insurance company.

~~(g)~~ **(7)** A duly executed power of attorney in a form prescribed by the department which constitutes and appoints an individual or a corporate resident of Indiana, or an authorized Indiana insurer, as the insurance company's agent, its true and lawful attorney upon whom, **except as provided in section 4.2 of this chapter**, all lawful processes in any action in law or in equity against it shall be served. Such power of attorney shall contain an agreement by

the insurance company that any lawful process against it which may be served upon the agent as its attorney shall be of the same force and validity as if served upon the insurance company and that such power of attorney shall continue in force and be irrevocable so long as any liability of the insurance company remains outstanding in this state. Such power of attorney shall be executed by the president and secretary of the insurance company or other duly authorized officers under its seal and shall be accompanied by a certified copy of the resolution of the board of directors of the company making said appointment and authorizing the execution of said power of attorney. Service of any lawful process shall be by delivering to and leaving with the agent two (2) copies of such process, with copy of the pertinent complaint attached. The agent shall forthwith transmit to the defendant company at its last known principal place of business by registered or certified mail, return receipt requested, one (1) of the copies of such process, with complaint attached, the other copy to be retained in a record which shall show all process served upon and transmitted by him. Such service shall be sufficient provided the returned receipt or, if the defendant company shall refuse to accept such mailing, the registered mail together with an affidavit of plaintiff or his attorney stating that service was made upon the agent and forwarded as above set forth but that such mail was returned by the post office department is filed with the court. The agent shall make information and receipts available to plaintiff, defendant or their attorneys. No plaintiff or complainant shall be entitled to a judgment by default based on service authorized by this section until the expiration of at least thirty (30) days from the date on which either the post office receipt or the unclaimed mail together with affidavit is filed with the court. Nothing in this section shall limit or abridge the right to serve any process, notice or demand upon any company in any other manner permitted by law.

~~(h)~~ (8) Proof which satisfies the department that it has complied with the financial requirements imposed in this chapter upon foreign and alien insurance companies which transact business in this state and that it is entitled to public confidence and that its admission to transact business in this state will not be prejudicial to public interest.

SECTION 3. IC 27-1-17-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4.2. (a) A foreign or alien insurance company that provides a surety bond that is required or permitted under the law of the United States shall execute a power of attorney in a form prescribed by the department irrevocably appointing the commissioner as the insurance company's agent for service of process in an action on the surety bond if the:**

1 **(1) surety bond was provided in Indiana; and**

2 **(2) service of process under this section is in addition to**
3 **another method of service of process authorized by law or**
4 **court rule.**

5 **(b) Service of process under this section has the same effect as**
6 **personal service on the insurance company.**

7 **(c) Upon receipt of process described in this section, the**
8 **commissioner shall forward the process to the resident agent**
9 **designated by the insurance company under section 4(7) of this**
10 **chapter.**

11 **(d) The commissioner may adopt rules under IC 4-22-2 to**
12 **establish reasonable fees for the acceptance of process described in**
13 **this section. Fees collected under rules adopted under this**
14 **subsection must be deposited in the department of insurance fund**
15 **established by IC 27-1-3-28."**

16 Renumber all SECTIONS consecutively.

(Reference is to ESB 349 as printed February 17, 2006.)

Representative Burton